

a due process claim, an equal protection violation or any constitutional issue.

She has never empaneled a jury. She has never instructed a jury on a reasonable doubt or sentenced a person to the penitentiary.

She has never had to decide whether a witness was telling the truth or not. As a judge, she has never heard a plaintiff, a defendant, a victim, or a child testify as a witness. She has never made that all-important decision of deciding whether or not a person is guilty or not guilty of a crime.

She has never held a gavel in a courtroom, and she has never made any decision in the heat of a trial. She has never ruled on a life-or-death issue.

Elena Kagan has never made a judgment call from the bench—not a single one. Yet, as a Supreme Court Justice, she would be second-guessing trial judges and trial lawyers who had been through the mud, blood, and tears of actual trials in actual courts of law. How can she possibly be qualified to fill the post of a Supreme Court Justice?

Kagan is an elitist academic who has spent most of her time out of touch with the real world and with the way things really are. Being a judge would be an exercise to the new Supreme Court nominee. She has read about being a judge in books, I suppose. She might even have played pretend in her college classroom. But she has never been a judge. She has never made a judicial decision, and her first one should not be as a member of the United States Supreme Court. She has never determined justice—not a single time. Yet she wants to be a Supreme Court Justice.

Besides never being a judge, she has never even been a trial lawyer. She has never questioned a witness, argued a case to a jury, or tried any case to any jury anywhere in the United States. She has absolutely no courtroom trial experience as a judge or as a lawyer. Real-world experience makes a difference. Reading books about something and actually doing it are two completely different things.

People's lives and livelihoods are at stake in these courtroom decisions. Courtroom experience is fundamental to being a judge on the Supreme Court. As anyone who has been through the court system can testify, a courtroom is a whole different world.

Putting Elena Kagan on the United States Supreme Court is like putting someone in charge of a brain surgery unit who has never done an operation. She may be qualified for the classroom, but she is certainly not qualified for the courtroom. She should stay in the schoolhouse since she has never been in trial at the courthouse. We cannot put the Constitution in the hands of someone who has never had to use it in the trial of a real case in a real court of law.

Elena Kagan—unqualified justice. And that's just the way it is.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Ms. WOOLSEY) is recognized for 5 minutes.

(Ms. WOOLSEY addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. WEINER) is recognized for 5 minutes.

(Mr. WEINER addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. JONES) is recognized for 5 minutes.

(Mr. JONES addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Ms. KAPTUR) is recognized for 5 minutes.

(Ms. KAPTUR addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas (Mr. MORAN) is recognized for 5 minutes.

(Mr. MORAN of Kansas addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

ISRAEL'S RIGHT TO SELF-DEFENSE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. HERGER) is recognized for 5 minutes.

Mr. HERGER. Mr. Speaker, I rise to affirm Israel's right to self-defense and to express my outrage over the knee-jerk international condemnation of our strong ally following the recent flotilla incident.

The video is clear: The activists ignored warnings from Israeli forces to turn away from Gaza, and they disregarded invitations to offload their supplies elsewhere. Worst of all, they placed Israeli forces in grave danger by brutally attacking them.

Many countries immediately condemned Israel. Their reactions sharply contrast with their failures to denounce the hostile behavior of Iran and North Korea.

I applaud the Obama administration for avoiding this double standard. The United States must always stand against the unfair treatment of an important ally.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. DEFAZIO) is recognized for 5 minutes.

(Mr. DEFAZIO addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

THE 10TH AMENDMENT TASK FORCE

The SPEAKER pro tempore (Mr. MURPHY of Connecticut). Under the Speaker's announced policy of January 6, 2009, the gentleman from Utah (Mr. BISHOP) is recognized for 60 minutes as the designee of the minority leader.

Mr. BISHOP of Utah. Thank you, Mr. Speaker.

I appreciate the opportunity to be here and for talking especially about the 10th Amendment and about some of the efforts that Members of this House are making in a way to try and emphasize the significance and the importance of that particular amendment to the Constitution.

You know, Mr. Speaker, for the people who are allowed to work in this Chamber or for those who come in to visit, there are all sorts of historical references that they can see.

Up around the top of the wall over here, there are the cameos of the great icons of the world, of the great lawgivers of the world. Moses is the greatest of all lawgivers. He is the only one who has a full face, and he is looking directly at the Speaker. Everyone else has a side view going around here.

And there are only two Americans in this pantheon of great lawgivers in the history of the world, George Mason and Thomas Jefferson, who are on either side of the Speaker's rostrum, with some great language from Webster, telling us to use our resources to develop this country, which is in between the two.

I always thought it was somewhat ironic that Jefferson and Mason were the two great lawgivers whom we have from the United States in this Chamber, because neither of them actually signed the Constitution. Jefferson was not present at the time, and George Mason was one of three people who spent the entire time at the Constitutional Convention but who, at the end of that time, still refused to affix his signature to the document itself.

As I was teaching school, I insisted that every one of my kids had to say why Mason was one of those who did not sign the document. What was his rationale for it? Of course, it was because the document did not have a Bill of Rights.

Now, I was always hoping that one of my students would ask what I still think is a more significant question, which is not why did Mason not sign but, rather, why did all of the other brilliant men, the Founding Fathers—Washington and Franklin and Madison and Hamilton and Wilson and Dickinson and the rest—not go along with Mason? Why did they not add a Bill of Rights into the base document?

It was certainly not because these Founding Fathers did not believe in the idea of individual liberty. They had another method, another mechanism, that they thought more specific than actually listing down what our rights are and are not. It was the structure of government. Though not specifically

named in the document, it becomes the essential element of the Constitution. And the purpose of that structure was to ensure that individual liberties would be maintained and that personal dignity and personal freedoms would be benefited and would grow in this country.

So those Founding Fathers, when they built our system of government, divided power horizontally between the three branches of government—executive, legislative, and judicial—with the goal and purpose of balancing those three so that individual liberties would be protected. Indeed, the problem is, if ever those three branches horizontally are out of balance, where one branch of government has far more ability to control the outcome of policy than the other, it is individual people who are hurt. It is their rights that are put in jeopardy.

Now, they thought it was going to be very easy for those three branches of government to maintain that special balance because each one would have a vested interest in maintaining their particular roles within the system. Yet what is often forgotten, especially in public school classes about government, is, in addition to that horizontal balance of power, equally important to the Founding Fathers was a vertical balance of power between the national government and the States.

Once again, the purpose of that balance was supposed to be to protect individual liberties. Again, if that balance is off kilter, then individuals are harmed. But the question always was: Would the Federal Government, the national government, be sufficient to try and maintain itself and to govern itself to create and maintain that balance?

In the Federalist Papers, obviously people like Madison and Hamilton, who wrote those Federalist Papers, envisioned this. This was part of their argument to this Nation on why the Constitution should be adopted.

Madison, in Federalist 45, said that the powers delegated by this proposed Constitution are few and defined. Those which are to remain in the State government are numerous and indefinite. Why? Because powers reserved to the States will extend to all the objects which concern the lives, liberties, and properties of the people.

In Federalist 32, Hamilton said the same thing when he simply said that any attempt on the part of the national government to abridge any State power would be a violent assumption of power unwanted by any article or clause of the Constitution.

Indeed, when Hamilton was arguing on whether to add a Bill of Rights to the Constitution itself, he simply asked the question: Why should we prohibit that which cannot be done? The assumption always was that there would be limitations on what the Federal Government can do, not so on the States.

Now, the final one from Federalist 51, also by Madison, said that the depend-

ence on the people is, no doubt, the primary control on government, but experience has taught mankind the necessity of auxiliary precautions.

The 10th Amendment to the Constitution—this concept of separating power horizontally between the three branches of government and vertically between the two levels of government—is one of those auxiliary precautions that the Founding Fathers realized we needed to have.

Scalia, in an opinion of the Supreme Court, once said that that Constitution's brilliance—and I'm paraphrasing this—is to divide powers among different levels and different branches of government to resist the temptation of consolidating power as a simplistic solution to the emergency of the day. That's what we are talking about.

Now, I want to emphasize very clearly that this is not the same thing as States' rights. States' rights, as we traditionally use that term, was an idea about power designed actually by Jefferson and Madison when they were talking about the Kentucky and Virginia resolutions and by Calhoun when he was talking about nullification and by Jefferson Davis when he was trying to fight the Civil War and by other groups when a lot of evils have actually been perpetuated.

States' rights is about power. Federalism and the 10th Amendment are about balancing power between branches of government, between the national government and the State government. And the balance—not control—the balance is there to protect individuals.

Because it is so easy for the Federal Government to ignore that or to forget it, we have formed a 10th Amendment Task Force. The goal and propensity of that task force is, once again, to try and reemphasize the significance of federalism and to disperse power from Washington to restore that constitutional balance of power through the liberty-enhancing elements of federalism.

We have five goals: One is to educate Congress and the public about federalism. Two is to develop proposals to disperse power to regions, to States, to local governments, and to private institutions, to families and to individuals. Three is to elevate federalism as a core focus of our leadership in Congress. Four is to monitor threats to 10th Amendment principles and to federalism. Five is to help build and foster a federalist constituency.

What we are trying to do is to make people more aware of the importance of federalism, of the importance of the 10th Amendment and how it impacts their lives and also to find ways to empower States so they can stand up to the national government and so they can reestablish the balance that was always intended to be there. Because, once again, if that balance is out of kilter, then all of a sudden individuals are harmed and people are harmed. It affects their daily lives.

If I could interrupt at this point, I would like to introduce one of the members, one of the 10 founders of this 10th Amendment Task Force to perhaps talk to you a little bit about the importance of the 10th Amendment and about the importance of federalism in restoring personal liberties and in making sure that government does not have the heavy hand that hurts and harms people, which was the intention of the Founding Fathers.

So I would yield to the gentleman from Texas for as much time as he wishes to consume at this point.

Mr. NEUGEBAUER.

Mr. NEUGEBAUER. Well, I thank the gentleman, and he brings up some excellent points.

I am a proud member of the 10th Amendment Task Force because I think one of the things that we have to do in order to restore order in this country is to get back to some of the principles that our Founders intended. They didn't intend for government to be the answer to every issue in this country.

One of the things I think back to happened a few years ago in my congressional district, which was not too long after we had the Katrina incident in New Orleans. We had a major fire in an area called Cross Plains, Texas. I went down there the next day, and the people in that region had already brought clothes to the church, so the people who had lost everything in the fire were able to receive clothes. For the people who had lost livestock, other people were going out and helping them. For people who had lost their homes, people in the community had provided temporary housing.

□ 1900

And within a very short period of time, the people in this community met their own needs. And I got an interesting phone call from a member of the media, and that person said, well, what is the government doing for the people in Cross Plains today? And I said, well, you know, the good news, we didn't need the government in Cross Plains today because the people responded to that.

And I think what we've gotten away from, as the gentleman points out, is we've kind of turned the whole concept of what the Founders thought about this country upside down. They never intended for the government to be the solution and, in fact, the best solutions happen when you keep the government closest to the people.

So the Tenth Amendment Task Force, what we're going to try to do is not only analyze some of the things we've already done; but as legislation is brought to this very floor, we're going to try to remind our colleagues of the principle of federalism, and is this the right place for this particular piece of legislation to be originated, or should this be left to the people, because every time the Federal Government puts a new law in place, individuals' liberties and freedoms are eroded.

Now, one of the things that we've been talking about in this body for a number of months now is these record deficits in our country. It wasn't many years ago that this country had a budget of \$100 billion, in fact, back in, I think, 1962. This year the President of the United States brought a budget to this floor that spent over \$3.7 trillion. And by the way, it's \$3.7 trillion, and we don't have \$3.7 trillion. In fact, we're going to borrow 42 cents for every dollar we're going to spend.

One of the reasons that we are running these record deficits is we have all of this money being funneled into the Federal system, and then we have all of these people up here in Washington trying to figure out how to spend the taxpayers' dollars, and then those monies go down to the States, and the States try to figure out how to distribute those dollars, and then the States pass them out maybe to the local communities. And here's what happens:

Here is a dollar bill that the taxpayers pay in taxes. Now, what happens is, after Washington washes this money in this massive federalism, then we have the dollar that actually gets back to the intended purpose. It's a shrunk dollar. And one of the things we can do if we really want to be serious about, one, being more government efficient is getting the government out of some of the businesses they're in so that this dollar is the dollar that gets to the people, and not this dollar that's been washed through Washington and through the States, but back to the local governments.

As I close and yield back to the gentleman, I think about the days when I was on the city council in Lubbock, Texas. And it was so discouraging to me where we would be sitting in council meetings, and we would be sitting with staff, and someone would have an innovative idea of better ways to serve our citizenry in Lubbock, Texas. But we would always hear from some of the staffers, well, there's a Federal regulation that we'll have to check on; or I'm not sure that that is in keeping with certain regulations that would keep Lubbock from getting certain kinds of funding, because it was stifling creativity in our local communities.

And so, as the gentleman points out, the Founders were very sincere about not letting the Federal Government have very many powers, because they knew where the best work happens, that to keep innovation and liberty and freedom in place was to limit the powers of our Federal Government. Some way along the line we lost our way.

And one of the reasons I joined the Tenth Amendment Task Force was to see if we can restore the spirit of the Constitution back to this body.

And with that, I yield back to the gentleman and thank him for his time.

Mr. BISHOP of Utah. I thank the gentleman from Texas for going over some specific examples of what this means to individuals.

Mr. Speaker, I hate to admit this: I'm an old school teacher. I taught history. So when I read about what the Founding Fathers intended and how they tried to structure this government, I find that fascinating.

I also recognize, unfortunately, for most people, when you talk about federalism or the Tenth Amendment, their eyes will glaze over. All they remember from those concepts is probably some essay they had to write in high school and something they didn't enjoy then and probably don't want to think about it now.

But the bottom line is, the Founding Fathers actually foresaw our day. They recognized that the solutions we need for the crisis of this day that impacts real people today is the concept of federalism. That balance, that balance which, unfortunately, has been out of balance for quite some time, is that solution and, indeed, the salvation of our future.

But, as you can obviously tell, I'm old, which is something that bothers me. However, I also recognize that the world is different. When I was a kid, television was a whole lot easier. There were only three channels and one PBS station. The dial only had 13 options on it, and, yeah, I had to actually get up and go to the TV and change the dial, so I didn't change channels that often. But that was life.

Now, when I go back this evening to my apartment, I will have a television set that gives me the option of 161 channels. Okay, it's true I still watch the same five all the time anyway, but I do have 161 options in front of me.

No longer do we have simply a telephone that's on the wall with the telephone company telling me what to do. I can go into a store and find all sorts of plans on how to communicate with other people in television today.

There are 14 kinds of wheat thins. There are 16 different varieties of Pringle potato chips. There are 160 different kinds of Campbell soup.

Even if I want vanilla, I can still go to a store that offers me 31 opportunities to pick something else.

The entire life of everyone today in the business world is one that deals with giving people choices and options. Whether it's telephone plans or kinds of cereal to buy, I have all sorts of options and choices in front of me. The business world has recognized that if they want business from me, they have to give me choice and options.

Everywhere in our life today we give choices and options. When I was a kid and I heard a song I liked, I had to go to the store and by the entire vinyl record and then put it on and hope I could drop the needle in the correct groove without destroying the record. I don't need to do that anymore. Today my kids have given me an iPod, which means if I hear a song I like, all I now have to do is call up one of my kids and say, come over and put it on my iPod because I don't know how to work the stupid thing. But I still have a choice.

Even—and I'm not trying to be a snob here—even in Dvorak's "New World Symphony," which I like, I have to admit I like the first and the third movement, and not the second, so no longer do I have to sit through about 15 minutes of stuff I don't like before going from the first to the third. I simply took it out so I can go directly from the first to the third. Those are options.

Everybody in America today has choices or options given to them, until it comes to dealing with the government, especially with the Federal Government, because once again, all of a sudden now you come back to Washington and you find out that Washington still believes in one-size-fits-all mentality programs and mandates. This is the only area where that's found. And the question you should be asking is: Why?

Well, it's very simple. That's our purpose of being the Federal Government. If you need to have something occurring in this country, where everyone is doing the exact same thing at the exact same time in the exact same way, the Federal Government, the national government here in Washington, is the only one that can orchestrate and mandate that. So if we have to be in lockstep, this is the level to go. This is the place to accomplish that task.

But, if, indeed, maybe something different is needed and creativity and options are important, it's not going to happen from Washington. Never has, and I don't think it ever will in the near future. If indeed you want something different, then you have to empower State and local governments to accomplish that task. If you want creativity, you allow States and local governments to fit situations to their particular needs and demographics.

Like my State of Utah is unique among the other States. We have more kids than any other State as a percentage of our population. We have more small businesses than other State as a percentage of our population. And we have a higher percentage of our small businesses with no insurance that they offer their employees than any other State in the Nation.

If you want to do some kind of health care program, for example, that fits the needs of Utah, with their high student population, their high small business population, you're going to have a program that's going to be vastly different from a State on the east coast. That doesn't happen here in Washington. It will happen if you empower States to come up with a new idea.

If you want efficiency, you empower States. If you want justice so that circumstances to a local level that are mitigating circumstances can be taken into effect, it can only happen if you empower State and local governments to do that.

Louis Brandeis, in one of his Supreme Court minority decisions, again talked about the States as the laboratory of democracy, which simply

meant, if you want people to explore creative ideas, allow them to do so. If States are the ones who are exploring those creative ideas and they do something well, it can be replicated by everyone else and maybe molded to fit the demographics of everyone else.

But if a State makes a mistake and it is wrong, only that State is negatively impacted. When Washington makes a mistake, everyone is impacted negatively, and it is very difficult to try and get out of that particular situation.

That's what the Founding Fathers were talking about. That idea of trying to give people choices and options can be accomplished if one truly believes in the idea of balance between a national government and States so States are empowered to be created, to be innovative, to come up with new ways, new approaches, and new ideas. And when we in Washington try and set mandates down to tell States how they will do things, we take away the creativity. And unfortunately, we also take away efficiency, and we take away choices and options from people.

That's what federalism means. It's not an essay to write in high school. It's about how people can live their lives to make choices for themselves. And it's very important.

With that, I'd like to take a break here and yield some time, or as much time as he may consume, as well to another great Representative from the State of Texas, who also is one of the participants with this task force, who recognizes the significance and importance of allowing people choices in their lives, and that does not come when the Federal Government sets its one-size-fits-all agenda on top of people. I yield to the gentleman from Texas for as much time as he may consume.

Mr. CONAWAY. Well, I thank the gentleman from Utah for yielding and for hosting this night's hour to talk about the Tenth Amendment and federalism.

It's probably been read into the RECORD 11 dozen times, but I want to read a quote from James Madison into the RECORD that sets the tone for what I want to talk about.

James Madison, in Federalist 45 said: "The powers delegated to the Federal Government are few and defined. Those which are to remain in the State governments are numerous and indefinite. The former will be exercised principally on external objects such as war, peace, negotiation and foreign commerce. And the powers reserved to the several States will extend to all of the objects in which, in the ordinary course of affairs concerns the lives, liberties and properties of the people."

Mr. Speaker, I'd argue that therein lies much of the problems that we face today as a Federal Government. Since 1995, this Congress and the various administrative agencies across this vast Federal Government have issued some 60,000 new rules and regulations, every-

thing from regulating the size of the holes in Swiss cheese to the colors for surgical sutures. And I would argue that the size of the holes in Swiss cheese probably should be defined by the folks in Wisconsin where they do a lot of cheese. But a Federal rule, Federal law that delves into that detail into the, as Madison would have referred to it as the ordinary course of affairs that concern the lives, liberties and properties of the people, that's a government that's overreached.

Part of our problem is we send people to Congress who are, at their core, can-do people, solution people, folks who want to solve issues. And our focus here is on every single problem. While our Constitution, though, says that we really are limited by the powers granted in the Constitution to this government as to those problems which we ought to take up, clearly national defense, clearly homeland security, post office roads as the phrase is used. But much of what we deal with every single day here in Congress is beyond those limited powers, because we are solutions-oriented kinds of folks and it's our nature to grab the bull by the horns and move forward with it, losing sight, of course, that the Constitution says that's not a real good thing for us to be doing.

Let me reemphasize that last sentence: "The powers reserved to the several States will extend to all the objects which, in the ordinary course of affairs, concern the lives, liberties and properties of the people."

Mr. Speaker, that's an awful lot of the area of lives that committees like Education and Workforce or Labor, many of the committees up here deal in the ordinary course of affairs of the lives of people.

Now, part of the rancor that we see across this country related to the Federal Government is a sense of powerlessness by the good folks back home over issues that really ought to be dealt with back home.

□ 1915

This rage that we're seeing is driven by an overreaching Federal Government. Decisions that are best made at the local level and controlled by those people are being usurped and taken care of by 435 people here in Washington and the 100 Senators on the other side. And much of that frustration at being out of control is as a result of this Congress taking over jobs and areas that are much better left to counties and cities and States as the Founding Fathers had intended. If we were to quit delving into their personal lives affairs and ordinary course affairs, much of the conflict that is out there would disappear and would be focused on the local level where the decisions are made best as to the solution that best fits those local folks.

I get asked often by mayors and county judges and city councilmen and county commissioners and school superintendents and others, What can we

do to help? What can we do to address the growing size of this Federal Government? One of the ways I ask them to help is to do a better job of vetting your requests to me and to your Federal Government for help. Make sure that whatever it is that you're asking us to do is a good idea, that there is a nexus to the Constitution, that there is a link in the Constitution that delegates the powers to this Federal Government for it to even deal with the particular problem you're bringing to us.

I would argue that much of our overspending today is driven by good-hearted people who have lost sight of the 10th amendment, have come up here and asked for help from this Federal Government, not of course realizing the strings that are going to be attached to the Federal laws that get put in place, when the solution would much better have been dealt with at the local level. Federalism, as my colleague from Utah has just stated, it's not really a left or right issue. It's not really a Democratic issue or a Republican issue. There are good things to be had by both sides. Both sides of the aisle should be able to embrace this concept so that the States do most of the heavy lifting and the counties and cities and local governments do the work that deals with the issues confronting their people. So this really shouldn't be a particularly partisan effort as we move forward.

My friend mentioned earlier about the idea that the States should be the incubators or the laboratories for experiments with how government addresses a particular program. There are two examples that I can think of off the top of my head. One is the health care experiment going on in Massachusetts. They've been at it now 3 or 4 years and it's different than what they thought it would be, they may not be able to push that to the scale of the United States, and the people of Massachusetts are struggling with how to pay for health care under the universal plan that they've put in place where everybody was mandated to have insurance. It doesn't look to me like it's working. Why would you then want to take that policy and try to extend it across the United States? I don't think you would.

An area where it has worked, and I'll brag on Texas. Six years ago, Texas put in place a tort reform program that limited the punitive damages on medical malpractice suits. So we've had a 6- or 7-year experiment involving 25 million people in Texas and it has worked. Doctors are coming to Texas because their malpractice insurance rates are lower, and the citizens of Texas are getting the care that they need. If a hospital and a physician make a mistake, the economic damages in trying to put that person back to as close to what they would have been before the mistake was made, that gets done. But these punitive damages, which sometimes just defy

logic, are no longer on the table in Texas.

And so that experiment, as the President called for in his health care speech, to test medical malpractice reform in and around the country, I would argue that we've had a 6-, almost 7-year test now working with the State of Texas on medical malpractice reform, tort reform, that really works. So in that vein, to the extent that this would be needed at the Federal level to deal with the vast medical programs that we have in place, could be replicated on a much larger scale because we've had a big enough test through the State that it makes sense.

Let me finish up by saying that because they lived 230 plus years ago, we sometimes give our Founding Fathers short shrift as to how intelligent they really were. We think because we are the most intelligent people walking the face of the earth, that we've got all the great ideas, that we don't really need to look back in the history to see and understand what they had in mind.

Quoting Madison again out of the Federalist Papers, "The powers delegated to the Federal Government are few and defined." That means if you've got a plan that doesn't fit under one of those powers, then the Federal Government really at the end of the day should not pass laws that deal with that. We should have the backbone to say, "That's a really tough problem, it's really important to people, but it's not the Federal Government's responsibility to address that. You need to work within your own system back home to address that issue."

That's one of the hardest things Members of Congress do. We hate to tell constituents, "No, that's really not something that the Federal Government should be dealing with," and yet that really should be the answer to many of the requests that we get from back home, is that these aren't federal issues. Quoting Madison again, "Those which are to remain in the State governments are numerous and indefinite. The former will be exercised principally on external objects, such as war, peace, negotiation and foreign commerce. The powers reserved to the several States will extend to all the objects which again in the ordinary course of affairs concern the lives, liberties and properties of the people."

Mr. Speaker, I would argue that all of us would learn a much better appreciation of how limited this Federal Government really should be if we were to go back and take a look at our Founding Fathers' comments and just periodically read the Constitution. It is a requirement on my staff, and I've introduced legislation that would encourage Members of Congress and their staffs to read the Constitution once a year. We all have the little pocket versions that we write in the front cover. When's the last time that we read the Constitution? It's not a long tome. It's 2,500 words or so. It's not like trying to wade through War and

Peace. You can sit down and read it and understand exactly what your Federal Government should be doing, and then everything else is left to the States.

With that, I appreciate the time from my colleague from Utah.

Mr. BISHOP of Utah. I appreciate Mr. CONAWAY from Texas for once again putting it in perspective and giving us some specific examples. One more time: If you're dealing with the difference of whether Washington comes up with a program or dealing with whether a State has the ability of coming up with a program, it's one more time where if the State does it, the efficiency of that program is far superior.

Let me give you a couple of examples of what we have done this year in this Congress. We passed a bill in the House, I don't think it's gone through the Senate yet, dealing with school construction, allowing the Federal Government to assist States with school construction. Now on the surface that sounds like a nice idea. The State of Utah, though, happens to be one of the States that has an equalization program which means already, districts that don't have a need and have extra money for construction will have some of that money taken away and given to districts where there is a greater need.

As I asked the sponsor of that bill, how will this Federal aid affect equalization, the answer was simply they didn't know; no one had ever thought about that kind of a concept. And indeed as the bill was developed to try and make sure that the aid went out to what we thought as Congress would be equitable, aid went out to Title I schools only, under the assumption that if you were a Title I school, you had poorer kids. Therefore, as a poorer district, you would need more assistance. Well, the bottom line is any aid money that would flow under our Federal program to the State of Utah would go to districts that didn't need the aid in construction. The districts that did need the aid in construction or that help and benefit didn't get anything.

And that system unfortunately was replicated in other States, where districts that did not need extra Federal help in school construction would indeed have gotten extra Federal help. It simply means that we don't necessarily know all of the variances that a State and local government does and therefore we make different decisions.

When I was Speaker of the House in Utah, I was obviously always upset with the Federal Government for putting more restrictions on me as a State legislator. There was one year in which the Federal Government in all their wisdom insisted that we buy a new computer system. That was back in the era when computers were big and bulky and they took up most of a room. We didn't want it but we did not have any option. If we wanted to have Carl Per-

kins funds, which go to technical education, we had to buy a new system, a new computer system, out of State funds. We couldn't transfer money. It had to come out of State funds. The bottom line is we did not spend as much on kids for technical education that year because instead we had to take our funds and spend it on a computer system that we didn't want, that we didn't need, and we also never used; simply because it was a Federal mandate. That's what you lose in this process.

Utah had some great registration rolls, until the Federal Government insisted that motor voter had to be a mandate that every State did. So instead of being able to go through our election rolls, our voter rolls, every 4 years as we were doing to make sure they were current, we now could not do it until 10 years had passed. Consequently, if you look at the number of people who are now registered in the State of Utah and the number of kids we have, the numbers quite frankly don't add up. Our voter rolls are in worse shape because the Federal Government insisted the State had to do it a particular way in every State, whether it made sense or not, and the State had to actually pay for that opportunity at the same time.

We had a bill before us a few weeks ago in which we tried to mandate physical education. There is nothing wrong with physical education in our public schools. There is nothing wrong with emphasizing it. There is nothing wrong with kids needing it. What is wrong is that Congress is not a school board. And school boards should be making those kinds of decisions.

One of the things that we have to realize is that words in the course of history change their meaning. If you went back to the time of the Constitution and you used the word "awful," awful back then did not mean something that was bad; awful meant something that was good and inspired awe. If you talked about a natural man, a natural man was somebody back then who was a reasonable individual. If you also talked about the verb to discover, discover back then did not mean to find something you don't know about; it meant to reveal something about which you do know to someone else. Words have different meanings.

One of the phrases that's in the Constitution, both in the first article as well as in the preamble, is the phrase "general welfare." That's one of the phrases that means different things. Today we have the tendency of reading that word and emphasizing the last word of "welfare." The Founding Fathers when they wrote that phrase emphasized the first word of "general," which simply meant that the Federal Government was only supposed to do things that impacted the general welfare, with emphasis on the word "general." It meant only doing those things that impacted everybody in this country, not a particular person. That's

why Presidents Madison and Monroe vetoed road projects. Jackson vetoed a road project because the road project only helped and benefited people in the area of that road and therefore was not general welfare. Well, we have changed that concept as time simply has gone on, not necessarily for the better.

I was giving a speech once on this very floor in which I talked about how they meant general welfare to be and how it was a restricting concept, not an expansive concept, and I got a call from one of the C-SPAN viewers the next day saying I appreciated the speech, it was very nice; however, she took umbrage at what I said because she said there were certain programs the government did that she liked. I said, "Ma'am, you have missed the very point I and the Founding Fathers were taking." The Founding Fathers said you don't have to have all these programs. What they said is not every program has to be designed and administered and funded through Washington; that those programs are opportunities and can be done equally as well being done by a State and local government as they are here.

Through all my life, my party has talked about trying to reduce the size and scope of government. I think as the gentleman from Texas (Mr. NEUGEBAUER) pointed out, that the deficit we had in 1962 was \$100 million dollars, our deficit today should be somewhere around \$3.5 trillion. Obviously we have failed somewhere. In the history of this country over the last half century, both Republicans and Democrats, the growth of government in Washington has continued. The best thing I can say is one party has had a slower growth pattern than the other party, but that's about the best you can say, because growth has happened. It is almost as if leaders in Washington, regardless of party, are unable to stop the size and the expansion and the growth of the Federal Government.

The reality is that our current system is basically rigged in favor of government growth. The incentives, the bureaucracy, power structure, institutions of Washington, have all evolved to help the Federal Government to acquire more power and influence, not less. What we need to do is look at the change in approach, and that's what the Founding Fathers were talking about. Not our goal but our approach. What the Founding Fathers were talking about is not simply cutting government, it was dispersing government, so different levels of government could do different kinds of programs and not everything has to come through Washington.

□ 1930

That's one of the things we're talking about with the 10th Amendment Caucus is how can we find ways to disperse government programs back to local governments where they can be done more creatively, more efficiently, and understanding local circumstances,

whether it be P.E. programs or school constructions or technical education or voter registration rolls or roads or anything else.

Now, that's what the Founding Fathers intended, that the programs be implemented at State level and the tax money for those programs remain at those State and local levels, which is why, as Mr. CONAWAY said, this is not a program about liberals and conservatives. If a liberal wants to expand government, fine. It can be done under federalism. But what you do is make sure that the government that is closest to the people runs it so it is a much more effective and efficient government program. And if you are a conservative who wants limited government in some way, then fine, you can do that as well. You both get what you want if federalism and the 10th Amendment are respected here in Washington as true principles as the way we govern ourselves and how we conduct ourselves in the future.

That is, indeed, the goal of what should be here: the goal of the importance. That's the importance of the 10th Amendment. It should allow people to get what they want, which is better government, more efficient government, better and more efficient programs.

I recognize that we have a couple of others who have joined us here.

I am appreciative that the gentlelady from North Carolina, Representative FOXX, is here. I'd like to yield her as much time as she may wish to consume on this topic as well.

Ms. FOXX. Well, I thank Mr. BISHOP, the gentleman from Utah, for being in charge of this Special Order tonight and bringing to the American people what I think is one of the most critical issues facing us in this country, and that is the issue of federalism and the need for us to adhere to the 10th Amendment of the Constitution of the United States.

Too few people really understand the role of the Federal Government in our country. We've gotten away from the teaching of the Constitution. We've gotten away from the teaching of the role of government in our country. People have this notion that they have this right and that right, and if you press them to tell you whether they've read the Constitution or not, most of them will tell you they have not. And they really do not understand, again, what the roles of our respective governments are.

In the last week, while we had a little bit of time away from Washington and I managed to squeeze out some quiet time, I had the chance to read a Joseph Ellis book called "American Creation," which talks about the triumphs and the tragedies of the beginning of our country. And it's really important that we understand that there were a lot of conflicts that came about in the founding of the United States. It wasn't as smooth a thing as many of us think that it was. But one thing that

was very clear to all of the Founders was the issue of federalism.

The idea of the United States of America was a radical idea to begin with. Never before had people believed that they had freedoms and that they had inalienable rights given to them by God. So it was a totally radical idea. But add to that the idea that you shouldn't have a Federal Government that would control everything from Washington, and it was absolutely radical. And we owe a great deal to George Washington, our first President, for not trying to be king and understanding that we needed to send power, delegate power, let power be held at the State and local levels.

We can see the unhealthiness of the growing role of the Federal Government fairly easy in numbers, and I'm going to quote a couple of numbers for you.

Since 1995 alone, the Federal Government has issued nearly 60,000 new rules governing everything from the size of the holes in Swiss cheese to what colors are allowed for surgical stitches. Federal spending surpassed a hundred billion dollars only in 1962 for the first time. That was a huge amount of money in 1962. And back then, people were saying a million here, a million there, and pretty soon you're talking about real money. In 2010, the Federal spending will surpass \$3.5 trillion.

I think there are very few people in the country who really believe that the best way to do things is to have them done by the Federal Government. I'm a very, very strong 10th Amendment person, as are my colleagues here, and I'm really pleased to be a part of the 10th Amendment Task Force. And perhaps my colleagues went over these earlier, but I'm going to mention them very quickly, what our mission is and what our goals are.

Our mission is to disperse power from Washington and restore the constitutional balance of power through liberty-enhancing federalism. And we have five goals:

Educate Congress and the public about federalism. You might wonder why Congress needs to be educated, but many Members of Congress really don't understand the concept of federalism;

Number two, develop proposals to disperse power to regional entities, States, local governments, private institutions, community groups, families, and individuals;

Three, elevate federalism as a core Republican focus;

Four, monitor threats to the 10th Amendment principles; and

Five, help build and foster a federalist constituency.

So we know what it is we need to be doing. We have worked as a Constitutional Caucus in the past to do our best to educate people, but focusing, I think, on the 10th Amendment is very, very important. And again, I'm very pleased to be a part of this.

Let me say some more about federalism.

The term is foreign to many people, but most Americans care about the things that federalism brings without even knowing it. Federalism brings choice, options, flexibility, and freedom. Federalism is not a concept of either the right or the left. It is neither a Republican nor a Democrat idea. Decentralization and community empowerment can be a worthy goal of both the left and the right. Both sides have something to gain under a federalist revival.

And this is not yesterday's States rights arguments. It's much bigger than that. This is about better governance. This is about adjusting modern politics to modern life. This is about breaking up big, inefficient, unresponsive government and returning power to the people.

As my colleague was using some illustrations a little bit ago about education, as one who was involved with education a great deal before coming to Congress, I wholly subscribe to the concepts which he presented.

Let me give a couple of other things about federalism, and then I'm going to turn it back to my colleague from Utah or to my colleague from Texas, both of whom who are extremely eloquent on this issue.

In a nutshell, federalism is the best system, because it brings government closer to the people. It nurtures civic virtue. It protects liberty. It takes advantage of local information. It stimulates policy innovation, and it alleviates political tensions.

In other words, federalism was the Founders' original formula for freedom and good government. It's time to reinvigorate this freedom-enhancing principle of government.

Again, I know very few people who believe that we should go to the Federal Government to solve all of our problems. We should first solve the problems that government needs to solve at the local level, then at the State level, and as a last resort, go to the Federal Government. Unfortunately, too many people think of the Federal Government first, and that complicates our lives.

We have a huge deficit and a huge debt right now because too many people have looked to the Federal Government to solve problems that could have been solved at the local and State levels for much less money and in a much more efficient way. I'll just give one example.

The problem that we're having in the gulf right now, that is a problem that does need to be solved by the Federal Government. But is the Federal Government prepared to do that? No. Why? Because the Federal Government's involved with way too many other things. The Federal Government should be looking after national security, I think national parks, our interstate highways, maybe the Federal Aviation Administration. But we're doing too much or attempting to do too much at the Federal level and not

doing those things that we should be doing as well as we should be doing.

So, again, I want to thank my colleague from Utah for being in charge of this Special Order tonight and giving us a chance to do all that we can to educate others.

I'm VIRGINIA FOXX from the Fifth District of North Carolina, and if you'd like more information about this issue, please go to my Web site or contact me and I'll be more than happy to share information about this, because, as Jefferson said, the price of freedom is eternal vigilance, and we must help educate our fellow Americans on this issue if we want to maintain the wonderful country that we have.

And with that, I'll yield to the gentleman from Utah, Mr. BISHOP.

Mr. BISHOP of Utah. I thank the gentlelady from North Carolina for coming down here and helping assist with this. She did a wonderful job in trying to put everything in some kind of perspective.

I think what we've talked about tonight is an effort to try and ensure that what the Founding Fathers did when they wrote the 10th Amendment in the First Congress, when that was part of the Bill of Rights, and indeed what they did in Philadelphia is they structured government the way it was. It had a purpose—separating power horizontally between the branches of government and, equally important, separating vertically between the national and States—had a specific purpose, and it was to ensure that there would always be a balance so that not one entity had too much power to use that to abuse people.

Making sure there is a balance is the key element to protecting individual rights and individual liberty. By allowing States to have a primary function, we become more creative. We have differing ideas, which means if people really want choices and options and a way of making sure that government is efficient and government is what they want in their particular area, you must empower State and local government to do that; which means you have to take away the power and the authority of the programs from Washington—which, by its very nature, can only come up with a one-size-fits-all system—and disperse that power, authority, and programs back down to State and local governments where people, once again, can have greater impact, greater input, and those programs can be done to meet the needs of our particular area.

This is a great country because of our size and diversity. But it also means if you want to have a government program that helps people and is not simply to blindly put a standard, as Nelson Rockefeller said, by the deafening hands of bureaucrats, then you need to make sure that we empower State and local governments so they do those programs. General welfare means that State and local governments get a greater role in how government pro-

grams are run because they can do it much more effectively and much more efficiently.

I have a few minutes remaining, Mr. Speaker, and I would like to yield those few minutes to another great legislator from the State of Texas, which is blessed by a lot of good legislators we have here in Congress, and Mr. GOHMERT would like to talk for a few minutes about Article V of the Constitution. I would like to yield time to him to accomplish that.

Mr. GOHMERT. As kind of a supplemental discussion from my friend from Utah—and I would love to have had one of the gentleman's classes in Utah. We would love to have had you teach in Texas. You are such a good teacher.

Supplementing the teaching that you've already provided, I'd just like to take people, Mr. Speaker, to Article V of the Constitution. It's a great document. I want to encourage people to read that, as my friends have already mentioned.

Some have said you would never want to have an amendment convention because it might be full of people who would come up with crazy amendments that would destroy the country, and so you would never want to do that. Some have said these guys that wrote the Constitution did such a perfect job, we should never allow an Amendment Constitution provided under Article V because that might mess it up.

□ 1945

But then on the other hand, if these guys did such a perfect job on the Constitution, then they must have put Article V in here for a reason.

Article V simply says, "The Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the legislatures of two-thirds of the several States, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this Constitution, when ratified by the legislatures of three-fourths of the several States, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the Congress."

Now, some have said, well, if you allowed the second part, the part that has never been utilized in the whole history of the United States, it would be destructive to the country. My point is, if we don't do something radical—and I'm not talking violence, that's completely unnecessary—but something radical from a congressional standpoint, from a national standpoint, we see where this is all going.

Just as my friends have been talking about, the excesses and the abuses are bringing this country to an incredible cliff. You know, we just read that China has now bought enough that it is approaching \$1 trillion that it owns of the United States' debt. Well, that

makes it a little tougher, doesn't it, to use leverage against China when we owe them that much money. Growing up, I had Sunday school lessons about the Bible teaching whoever you borrow money from becomes your master, and we've done that because we can't control the spending.

So we need something that is a little out of the ordinary to bring this thing in, and what better method than the one that the constitutional founders, the drafters, put in there, approved, and the States ratified, and that is to say, you know what, it's time for an amendment convention.

We have usurped so much power from the States—and this latest health care debacle, the health care reform bill that was passed and signed into law now, has the potential to bankrupt States that were having a hard enough time as it is.

Well, those States have power under our Constitution, and as we know, up until the 17th amendment, when those in Washington—and this was apparently pushed by Woodrow Wilson. He liked the idea of the Federal Government running everything, and he would have been really proud of the health care bill because it was all about the GRE, the government running everything.

So this 17th amendment was an effective way of taking away any check or balances that the States were provided under the Constitution because, under the Constitution, the State legislatures selected the U.S. Senators. Most students were never taught that. But the founders felt like there had to be a way that the Federal Government could be prevented from just usurping all the power from the States and the people as the tenth amendment talks about, and this would be it, because you would never send a Senator up here from your State, if you're a State legislature, if he's going to add unfunded mandates to your responsibilities in the States and take away your power at the same time. There were Senators that were recalled.

So, from the day after the health care bill was passed here in the House, I've been talking about an Article V amendment convention that would allow the States to come together and propose amendments. Now, there's difference of opinion. I had a wonderful conversation with former Attorney General Ed Meese about this. He has some good ideas as well.

But we have got to do something. And I am not in favor of repealing the 17th amendment, have never been in favor of repealing the 17th amendment, but there are some wonderful ways of reining in the Federal Government, maybe giving the States the right to veto legislation. So, there are a number of things, and as we saw back when the States were gathering momentum to have an amendment convention, Congress got scared that that would really happen so they rushed in and voted to repeal prohibition, proposed

that of course as a constitutional amendment and it passed.

So maybe the States need to start that gathering storm, and we could get Congress to do what it needs and, that is, give the States some power like they originally had.

I appreciate so much my friend from Utah yielding.

JOBS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 2009, the gentleman from Texas (Mr. GOHMERT) is recognized for 60 minutes.

Mr. GOHMERT. Mr. Speaker, interesting news came out Friday about jobs. There was a good Wall Street Journal article June 4. It talked about this wonderful news that we heard from Washington that last month the job total increased by 431,000. That is fantastic news, just wonderful. But there's a little problem in it. The U.S. Department of Labor released statistics saying, yes, there were 431,000 jobs created last month and that's fantastic and all, but unfortunately, 411,000 of them were temporary census worker jobs. Well, it's just hard to feel really good about the economy when out of 431,000 new jobs, according to the U.S. Department of Labor last month, 411,000 of them were government jobs. Not just government, temporary government jobs.

I've talked to some census workers. We had a job fair in my district in Marshall, Texas, at the East Texas Baptist University. They're very cooperative and helpful. We had one previously at Laterno University. Texas Workforce Commission does such a great job. We've partnered together with them and Laterno and Longview and many other partners to have a job fair previously. We've had one in Lufkin, partnered with Angelina College and the Texas Workforce Commission, and this one was in Marshall.

On one hand, anytime you throw a party and a lot of people show up, you're thrilled; this worked out great. But on a very human basis, you know that every one of the people that come seeking jobs have broken hearts. Most of them have families who need them to get jobs. So many of them, you know, long-time employees somewhere, and we have not done them any favors by the work that's been done here in Congress going back to failing to reform Fannie Mae and Freddie Mac which really put us to the brink of economic collapse. Complete failure to do that, to reform them.

Then in September, October of 2008, as a potential meltdown began, many people don't know but there were more homes sold in September of 2008 than in any month in the last 5 years before that. But of course, once the Secretary of Treasury went out and said unless Congress gives me \$700 billion, there's going to be a total meltdown, but give me \$700 billion in a slush fund and I'll

pay off my buddies on Wall Street and I'll get everything going good, and you know, basically inferring that—and I think he legitimately believed, if all the people that he had worked with and knew so well on Wall Street maintained their wealth, continued to get rich or richer, didn't go bankrupt, then it surely would be good for the rest of America.

Little did he know that that was not the case. We bailed out folks, and you know, it's interesting. It also said something about the morality in America because there was a time in America if you got greedy, a little hasty, and drove your cart off in a ditch and your neighbors helped you get your cart out of that ditch, then you felt a little guilty. It was a moral thing. You had a conscience and you felt guilty because your neighbors helped you get your cart out of the ditch, and they did not contribute at all in you getting it there. It was your own negligence, your own greed.

And so nowadays we've gotten to the point where AIG, Goldman Sachs, Wall Street, some of them at least—they let Lehman Brothers go because they were a competitor of Goldman Sachs—but anyway, they got greedy, extremely greedy, careless, and ran their cart into a ditch, and there was no way they were going to get out. They should have been forced to go into bankruptcy and reorganize like every other entity but they didn't.

America, most of us didn't like the idea. We didn't support it. We were totally against it, but nonetheless we were forced to get Goldman Sachs' cart out of the ditch. And what has happened since? Well, they've gotten in their cart, motorized it, and run over the rest of us.

So that didn't work out so well, and in January of 2009, when we heard that Timothy Geithner was going to be appointed to be Secretary of the Treasury, well, what we heard from folks down the other end of the hall was, well, we need to confirm him as Treasury Secretary because he worked with Paulson on the plan. To my way of thinking, this meant this guy should not get near the Treasury Department, but that's not what happened.

So we've continued to have the Federal Government continue to take over more and more authority, usurp more of individuals' moneys, their credit, the potential capital out there to create private jobs, just sucked it up in Washington, and in the meantime, the Federal Reserve apparently is printing lots of money. And so we're just doing all kinds of good things, and it is continuing to drive us toward a cliff.

And for anybody to stand up and try to make it sound like great news, 431,000 new jobs last month, that's the most in a number of years, it's fantastic, it's great, and not realize or not be forthcoming enough to point out that nearly all those jobs, the vast majority of them, were temporary census jobs is just not right, and it's not doing right by America.